

OFFICE OF LEGISLATIVE LEGAL SERVICES

COLORADO GENERAL ASSEMBLY

DIRECTOR
Sharon L. Eubanks

DEPUTY DIRECTOR
Julie A. Pelegri

REVISOR OF STATUTES
Jennifer G. Gilroy

ASSISTANT DIRECTORS
Jeremiah B. Barry Gregg W. Fraser
Christine B. Chase Duane H. Gall

PUBLICATIONS COORDINATOR
Kathy Zambrano



COLORADO STATE CAPITOL
200 EAST COLFAX AVENUE SUITE 091
DENVER, COLORADO 80203-1716

TEL: 303-866-2045 FAX: 303-866-4157
EMAIL: OLLS.GA@STATE.CO.US

MANAGING SENIOR ATTORNEYS
Jennifer A. Berman Jason Gelender
Michael J. Dohr Robert S. Lackner
Kristen J. Forrestal Jane M. Ritter

SENIOR ATTORNEYS
Brita Darling Jerry Payne
Edward A. DeCecco Richard Sweetman
Yelana Love Esther van Mourik
Nicole H. Myers Megan Waples

SENIOR ATTORNEY FOR ANNOTATIONS
Michele D. Brown

STAFF ATTORNEYS
Jacob Baus Sarah Lozano
Conrad Imel Alana Rosen
H. Pierce Lively Shelby L. Ross

MEMORANDUM

TO: Committee on Legal Services

FROM: Christy Chase, Office of Legislative Legal Services

DATE: February 18, 2021

SUBJECT: Rules from the Division of Professions and Occupations, Department of Regulatory Agencies, concerning the implementation of S.B. 20-102:

3 CCR 707-1 (LLS Docket No. 200631; SoS Tracking No. 2020-00672)
3 CCR 711-1 (LLS Docket No. 200679; SoS Tracking No. 2020-00665)
3 CCR 711-2 (LLS Docket No. 200681; SoS Tracking No. 2020-00668)
3 CCR 716-1 (LLS Docket No. 200689; SoS Tracking No. 2020-00736)
3 CCR 721-1 (LLS Docket No. 200632; SoS Tracking No. 2020-00673)
3 CCR 722-1 (LLS Docket No. 200685; SoS Tracking No. 2020-00654)
4 CCR 726-1 (LLS Docket No. 200611; SoS Tracking No. 2020-00578)
4 CCR 732-1 (LLS Docket No. 200663; SoS Tracking No. 2020-00739)
4 CCR 734-1 (LLS Docket No. 200668; SoS Tracking No. 2020-00735)
4 CCR 735-1 (LLS Docket No. 200677; SoS Tracking No. 2020-00648)
4 CCR 736-1 (LLS Docket No. 200672; SoS Tracking No. 2020-00733)
4 CCR 737-1 (LLS Docket No. 200627; SoS Tracking No. 2020-00595)
4 CCR 738-1 (LLS Docket No. 200670; SoS Tracking No. 2020-00651)
4 CCR 739-1 (LLS Docket No. 200671; SoS Tracking No. 2020-00660)
4 CCR 741-1 (LLS Docket No. 200676; SoS Tracking No. 2020-00645)
4 CCR 744-1 (LLS Docket No. 200637; SoS Tracking No. 2020-00674)
4 CCR 745-1 (LLS Docket No. 200684; SoS Tracking No. 2020-00661)
4 CCR 748-1 (LLS Docket No. 200683; SoS Tracking No. 2020-00671)
4 CCR 749-1 (LLS Docket No. 200678; SoS Tracking No. 2020-00669)¹

¹ Under § 24-4-103, C.R.S., the Office of Legislative Legal Services reviews rules to determine whether they are within the promulgating agency's rule-making authority. Under § 24-4-103 (8)(c)(I), C.R.S., the rules discussed in this memorandum will expire on May 15, 2021, unless the General Assembly acts by bill to postpone such expiration.

Summary of Problem Identified and Recommendations

Section 12-30-115, C.R.S., requires certain regulated health care providers to provide a written disclosure regarding a conviction of or discipline based on sexual misconduct to patients before providing professional services, which disclosure must be provided in a form and manner specified by rule of the regulator that regulates the particular provider. Section 12-30-115 (4)(b), C.R.S., grants an exemption to the disclosure requirement for a provider "who does not have a direct treatment relationship or have direct contact with the patient." The regulators² adopted rules to implement section 12-30-115, C.R.S., including a provision specifying a limited, rather than complete, exception to the disclosure requirement for providers that do not have contact with a patient. **Because these rules conflict with the statute, we recommend that the following rules of the regulators concerning disclosures of sexual misconduct not be extended:**

- Board of Chiropractic Examiners, Rule 1.35 E. 4.;
- Director, Office of Hearing Aid Provider Licensure, Rule 1.12 E. 4.;
- Director, Office of Audiology Licensure, Rule 1.13 C. 4.,³
- Board of Nursing, Rule 1.28 E. 4.;
- State Board of Psychologists Examiners, Rule 1.22 E. 4.;
- Director, Office of Massage Therapy Licensure, Rule 1.14 E. 4.;
- State Board of Social Work Examiners, Rule 1.23 E. 4.;
- State Physical Therapy Board, Rule 1.6 E. 4.;
- Board of Unlicensed Psychotherapist, Rule 1.16 E. 4.;
- Director, Office of Athletic Trainer Licensure, Rule 1.13 E. 4.;
- Board of Marriage and Family Therapist Examiners, Rule 1.22 E. 4.;
- Board of Licensed Professional Counselor Examiners, Rule 1.23 E. 4.;
- Director, Office of Acupuncture Licensure, Rule 1.12 E. 4.;
- Director, Office of Direct-Entry Midwifery Registration, Rule 1.24 E. 4.;

² For purposes of this memorandum and the rules discussed herein, "regulator" refers collectively to the following: Board of Addiction Counselor Examiners; Board of Chiropractic Examiners; Board of Licensed Professional Counselor Examiners; Board of Marriage and Family Therapist Examiners; State Board of Psychologists Examiners; Board of Nursing; Board of Unlicensed Psychotherapists; State Physical Therapy Board; State Board of Social Work Examiners; and the Director of the Division of Professions and Occupations for: The Office of Acupuncture Licensure; Office of Athletic Trainer Licensure; Office of Audiology Licensure; Office of Hearing Aid Provider Licensure; Office of Massage Therapy Licensure; Office of Direct-Entry Midwifery Registration; Office of Naturopathic Doctor Registration; Office of Respiratory Therapy Licensure; Office of Speech Language Pathology Certification; and Office of Surgical Assistant and Surgical Technologist Registration.

³ Note that this Rule 1.13 has two sections labeled as "C." This memorandum addresses subpart 4, under the *second* section C. in Rule 1.13.

- Director, Office of Respiratory Therapy Licensure, Rule 1.11 E. 4.;
- Board of Addiction Counselor Examiners, Rule 1.23 E. 4.;
- Director, Office of Surgical Assistant and Surgical Technologist Registration, Rule 1.8 E. 4.;
- Director, Office of Speech Language Pathology Certification, Rule 1.23 E. 4.; and
- Director, Office of Naturopathic Doctor Registration, Rule 1.19 E. 4.

Analysis

The statute requiring disclosures regarding sexual misconduct convictions and disciplinary actions exempts providers who have no patient contact, but a portion of the regulators' rules conflicts with the statute by providing a limited exception to the disclosure requirement before providing professional services rather than a complete exemption.

Senate Bill 20-102, which enacted section 12-30-115, C.R.S., imposes disclosure requirements on certain health care providers,⁴ requiring a provider who has been convicted of or plead guilty to a sexual offense or has been disciplined for conduct related to, including, or involving sexual misconduct to disclose that fact to and obtain a signed acknowledgment from a patient before providing professional services to the patient. The requirement is set forth in subsection (3)(a), which provides:

12-30-115. Required disclosure to patients - conviction of or discipline based on sexual misconduct - signed agreement to treatment - exceptions - violation grounds for discipline - rules - definitions. (3) (a) Except as provided in subsection (4) of this section, a provider shall provide the disclosure specified in subsection (2) of this section to the patient in writing, in the form and manner specified by the regulator by rule, **before** providing professional services to the patient. **(Emphasis added)**

Section 12-30-115 (4), C.R.S., provides two distinct exceptions to the disclosure requirement, listed in paragraphs (a) and (b):

⁴ § 12-30-115, C.R.S., applies to providers who are subject to the requirements of the "Michael Skolnik Medical Transparency Act of 2010", § 12-30-102, C.R.S. For purposes of the rules at issue, the providers affected by these rules are: chiropractors, nurses, nurse aides, psychiatric technicians, massage therapists, psychologists, hearing aid providers, audiologists, social workers, physical therapists, unlicensed psychotherapists, athletic trainers, marriage and family therapists, licensed professional counselors, acupuncturists, direct-entry midwives, respiratory therapists, addiction counselors, surgical assistants, surgical technologists, speech-language pathologists, and naturopathic doctors.

12-30-115. Required disclosure to patients - conviction of or discipline based on sexual misconduct - signed agreement to treatment - exceptions - violation grounds for discipline - rules - definitions. (4) (a) A provider need not make the disclosure required by this section **before** providing professional services to a patient if any of the following applies:

(I) The patient is unconscious or otherwise unable to comprehend the disclosure and sign an acknowledgment of receipt of the disclosure pursuant to subsection (3)(d) of this section and a guardian of the patient is unavailable to comprehend the disclosure and sign the acknowledgment;

(II) The visit occurs in an emergency room or freestanding emergency department or the visit is unscheduled, including consultations in inpatient facilities; or

(III) The provider who will be treating the patient during the visit is not known to the patient until immediately prior to the start of the visit.

(b) A provider who does not have a direct treatment relationship or have direct contact with the patient is not required to make the disclosure required by this section. (Emphases added)

The exception under subsection (4)(a) of the statute is limited in that it *only* applies "before providing professional services" in certain exigent or emergency circumstances, e.g., the patient is unconscious or unable to comprehend the disclosure and sign an acknowledgment. Once the emergency or exigency ends, the requirement under subsection (3)(a) of the statute – to provide the disclosure – applies to the provider.

On the other hand, the exception under subsection (4)(b) of the statute creates an outright exemption from the disclosure requirement for providers who neither have a direct treatment relationship nor have direct contact with the patient.

Section 12-30-115 (3)(a) and (3)(d), C.R.S., authorize the regulators to adopt rules specifying the form and manner for the written disclosure and signed patient acknowledgment required by section 12-30-115, C.R.S. Additionally, section 12-20-204 (1), C.R.S., authorizes regulators to "adopt rules necessary to administer the part or article of this title 12 pursuant to which the regulator has regulatory authority."

In adopting rules to implement section 12-30-115, C.R.S., the regulators included the exceptions to the disclosure requirement specified in subsection (4) of the statute. The following rule of the State Board of Social Work Examiners is illustrative of the rules of all of the regulators:⁵

⁵ The regulators' rules are attached as **Addendum A**.

1.23 REQUIRED DISCLOSURE TO CLIENTS - CONVICTION OF OR DISCIPLINE BASED ON SEXUAL MISCONDUCT (§ 12-30-115, C.R.S.)

E. A licensee or certificate holder is not required to provide the written disclosure before providing professional services to the patient in the following instances as set forth in section 12-20-115(4), C.R.S.:⁶

1. The patient is unconscious or otherwise unable to comprehend the disclosure and a guardian of the patient is unavailable;
2. The patient visit occurs in an emergency room or freestanding emergency department or the visit is unscheduled, including consultations in inpatient facilities;
3. The licensee or certificate holder providing the professional service to the patient is not known to the patient until immediately prior to the start of the visit; or
4. **The licensee or certificate holder does not have a direct treatment relationship or have direct contact with the patient. (Emphasis added)**

The rules place the outright exemption for providers that do not have a direct treatment relationship or direct contact with the patient as the fourth item under the introductory paragraph that provides limited exceptions to the requirement rather than as a separate, outright exemption, thus suggesting that these providers would ultimately have to provide the disclosure to and obtain an acknowledgment from the patient. Accordingly, the rules conflict with the statute in that these providers would have a limited exception to, rather than the statutorily granted outright exemption from, the disclosure and acknowledgment requirements.

Because the rules listed in Addendum A conflict with the statute, we recommend that they not be extended.

Recommendations

We therefore recommend that the following rules of the regulators concerning the disclosure of sexual misconduct not be extended because they conflict with the statute by limiting the exemption authorized in section 12-30-115 (4)(b), C.R.S., for providers who do not have a direct treatment relationship or contact with patients:

- Board of Chiropractic Examiners, Rule 1.35 E. 4.;
- Director, Office of Hearing Aid Provider Licensure, Rule 1.12 E. 4.;

⁶ Note that the reference to "section 12-20-115(4), C.R.S." is erroneous in all of the rules; the correct reference is "section 12-30-115 (4), C.R.S."

- Director, Office of Audiology Licensure, Rule 1.13 C. 4.;
- Board of Nursing, Rule 1.28 E. 4.;
- State Board of Psychologists Examiners, Rule 1.22 E. 4.;
- Director, Office of Massage Therapy Licensure, Rule 1.14 E. 4.;
- State Board of Social Work Examiners, Rule 1.23 E. 4.;
- State Physical Therapy Board, Rule 1.6 E. 4.;
- Board of Unlicensed Psychotherapist, Rule 1.16 E. 4.;
- Director, Office of Athletic Trainer Licensure, Rule 1.13 E. 4.;
- Board of Marriage and Family Therapist Examiners, Rule 1.22 E. 4.;
- Board of Licensed Professional Counselor Examiners, Rule 1.23 E. 4.;
- Director, Office of Acupuncture Licensure, Rule 1.12 E. 4.;
- Director, Office of Direct-Entry Midwifery Registration, Rule 1.24 E. 4.;
- Director, Office of Respiratory Therapy Licensure, Rule 1.11 E. 4.;
- Board of Addiction Counselor Examiners, Rule 1.23 E. 4.;
- Director, Office of Surgical Assistant and Surgical Technologist Registration, Rule 1.8 E. 4.;
- Director, Office of Speech Language Pathology Certification, Rule 1.23 E. 4.; and
- Director, Office of Naturopathic Doctor Registration, Rule 1.19 E. 4.

ADDENDUM A

Rules of the Board of Chiropractic Examiners, LLS Docket 200631/SoS Tracking No. 2020-00672

3 CCR 707-1

1.35 REQUIRED DISCLOSURE TO PATIENTS – CONVICTION OF OR DISCIPLINE BASED ON SEXUAL MISCONDUCT

E. A licensee is not required to provide the written disclosure before providing professional services to the patient in the following instances as set forth in section 12-20-115(4), C.R.S:

1. The patient is unconscious or otherwise unable to comprehend the disclosure and a guardian of the patient is unavailable;
2. The patient visit occurs in an emergency room or freestanding emergency department or the visit is unscheduled, including consultations in inpatient facilities; or
3. The licensee providing the professional service to the patient is not known to the patient until immediately prior to the start of the visit; or
4. **The licensee does not have a direct treatment relationship or have direct contact with the patient. (Emphasis added)**

Rules of the Director, Office of Hearing Aid Provider Licensure, LLS Docket 200679/SoS Tracking No. 2020-00665

3 CCR 711-1

1.12 REQUIRED DISCLOSURE TO PATIENTS – CONVICTION OF OR DISCIPLINE BASED ON SEXUAL MISCONDUCT

E. A licensee is not required to provide the written disclosure before providing professional services to the patient in the following instances as set forth in section 12-20-115(4), C.R.S.:

1. The patient is unconscious or otherwise unable to comprehend the disclosure and a guardian of the patient is unavailable;
2. The patient visit occurs in an emergency room or freestanding emergency department or the visit is unscheduled, including consultations in inpatient facilities; or

3. The licensee providing the professional service to the patient is not known to the patient until immediately prior to the start of the visit; or

4. The licensee does not have a direct treatment relationship or have direct contact with the patient. (Emphasis added)

**Rules of the Director, Office of Audiology Licensure,
LLS Docket 200681/SoS Tracking No. 2020-00668**

3 CCR 711-2

**1.13 REQUIRED DISCLOSURE TO PATIENTS – CONVICTION OF OR
DISCIPLINE BASED ON SEXUAL MISCONDUCT**

C. A provider is not required to provide the written disclosure before providing professional services to the patient in the following instances as set forth in section 12-20-115(4), C.R.S.:

1. The patient is unconscious or otherwise unable to comprehend the disclosure and a guardian of the patient is unavailable;

2. The patient visit occurs in an emergency room or freestanding emergency department or the visit is unscheduled, including consultations in inpatient facilities; or

3. The provider providing the professional service to the patient is not known to the patient until immediately prior to the start of the visit; or

4. The provider does not have a direct treatment relationship or have direct contact with the patient. (Emphasis added)

**Rules of the Board of Nursing,
LLS Docket 200689/SoS Tracking No. 2020-00736**

3 CCR 716-1

**1.28 REQUIRED DISCLOSURE TO PATIENTS – CONVICTION OF OR
DISCIPLINE BASED ON SEXUAL MISCONDUCT (Section 12-30-115, C.R.S)**

E. A licensee is not required to provide the written disclosure BEFORE providing professional services to the patient in the following instances as set forth in section 12-20-115(4), C.R.S.:

1. The patient is unconscious or otherwise unable to comprehend the disclosure and a guardian of the patient is unavailable;

2. The patient visit occurs in an emergency room or freestanding emergency department or the visit is unscheduled, including consultations in inpatient facilities; or
3. The licensee providing the professional service to the patient is not known to the patient until immediately prior to the start of the visit; or
4. **The licensee does not have a direct treatment relationship or have direct contact with the patient. (Emphasis added)**

**Rules of the State Board of Psychologists Examiners,
LLS Docket 200632/SoS Tracking No. 2020-00673**

3 CCR 721-1

1.22 REQUIRED DISCLOSURE TO PATIENTS – CONVICTION OF OR
DISCIPLINE BASED ON SEXUAL MISCONDUCT (§12-30-115 C.R.S.)

E. A licensee is not required to provide the written disclosure BEFORE providing professional services to the patient in the following instances as set forth in section 12-20-115(4), C.R.S:

1. The patient is unconscious or otherwise unable to comprehend the disclosure and a guardian of the patient is unavailable;
2. The patient visit occurs in an emergency room or freestanding emergency department or the visit is unscheduled, including consultations in inpatient facilities; or
3. The licensee providing the professional service to the patient is not known to the patient until immediately prior to the start of the visit; or
4. **The licensee does not have a direct treatment relationship or have direct contact with the patient. (Emphasis added)**

**Rules of the Director, Office of Massage Therapy Licensure,
LLS Docket 200685/SoS Tracking No. 2020-00654**

3 CCR 722-1

1.14 REQUIRED DISCLOSURE TO PATIENTS – CONVICTION OF OR
DISCIPLINE BASED ON SEXUAL MISCONDUCT

E. A provider is not required to provide the written disclosure before providing professional services to the patient in the following instances as set forth in section 12-20-115(4), C.R.S.:

1. The patient is unconscious or otherwise unable to comprehend the disclosure and a guardian of the patient is unavailable
2. The patient visit occurs in an emergency room or freestanding emergency department or the visit is unscheduled, including consultations in inpatient facilities; or
3. The provider providing the professional service to the patient is not known to the patient until immediately prior to the start of the visit; or
4. **The provider does not have a direct treatment relationship or have direct contact with the patient. (Emphasis added)**

**Rules of the State Board of Social Work Examiners,
LLS Docket 200611/SoS Tracking No. 2020-00578**

4 CCR 726-1

**1.23 REQUIRED DISCLOSURE TO CLIENTS - CONVICTION OF OR
DISCIPLINE BASED ON SEXUAL MISCONDUCT (§ 12-30-115, C.R.S.)**

E. A licensee or certificate holder is not required to provide the written disclosure before providing professional services to the patient in the following instances as set forth in section 12-20-115(4), C.R.S:

1. The patient is unconscious or otherwise unable to comprehend the disclosure and a guardian of the patient is unavailable;
2. The patient visit occurs in an emergency room or freestanding emergency department or the visit is unscheduled, including consultations in inpatient facilities;
3. The licensee or certificate holder providing the professional service to the patient is not known to the patient until immediately prior to the start of the visit; or
4. **The licensee or certificate holder does not have a direct treatment relationship or have direct contact with the patient. (Emphasis added)**

**Rules of the State Physical Therapy Board,
LLS Docket 200663/SoS Tracking No. 2020-00739**

4 CCR 732-1

**1.6 REQUIRED DISCLOSURE TO PATIENTS – CONVICTION OF OR
DISCIPLINE BASED ON SEXUAL MISCONDUCT (Section 12-30-115, C.R.S.)**

E. A licensee or certificate holder is not required to provide the written disclosure BEFORE providing professional services to the patient in the following instances as set forth in section 12-20-115(4), C.R.S:

1. The patient is unconscious or otherwise unable to comprehend the disclosure and a guardian of the patient is unavailable; or
2. The patient visit occurs in an emergency room or freestanding emergency department or the visit is unscheduled, including consultations in inpatient facilities; or
3. The licensee or certificate holder providing the professional service to the patient is not known to the patient until immediately prior to the start of the visit; or
- 4. The licensee or certificate holder does not have a direct treatment relationship or have direct contact with the patient. (Emphasis added)**

**Rules of the Board of Unlicensed Psychotherapist,
LLS Docket 200668/SoS Tracking No. 2020-00735**

4 CCR 734-1

1.16 REQUIRED DISCLOSURE TO CLIENTS – CONVICTION OF OR
DISCIPLINE BASED ON SEXUAL MISCONDUCT (§12-30-115 C.R.S)

E. A registrant is not required to provide the written disclosure BEFORE providing professional services to the patient in the following instances as set forth in section 12-20-115(4), C.R.S.:

1. The patient is unconscious or otherwise unable to comprehend the disclosure and a guardian of the patient is unavailable;
2. the patient visit occurs in an emergency room or freestanding emergency department or the visit is unscheduled, including consultations in inpatient facilities;
3. The registrant providing the professional service to the patient is not known to the patient until immediately prior to the start of the visit; or
- 4. The registrant does not have a direct treatment relationship or have direct contact with the patient. (Emphasis)**

**Rules of the Director, Office of Athletic Trainer Licensure,
LLS Docket 200677/SoS Tracking No. 2020-00648**

4 CCR 735-1

1.13 REQUIRED DISCLOSURE TO PATIENTS – CONVICTION OF OR
DISCIPLINE BASED ON SEXUAL MISCONDUCT

E. A provider is not required to provide the written disclosure before providing professional services to the patient in the following instances as set forth in section 12-20-115(4), C.R.S.:

1. The patient is unconscious or otherwise unable to comprehend the disclosure and a guardian of the patient is unavailable;
2. The patient visit occurs in an emergency room or freestanding emergency department or the visit is unscheduled, including consultations in inpatient facilities;
3. The provider providing the professional service to the patient is not known to the patient until immediately prior to the start of the visit; or,
4. **The provider does not have a direct treatment relationship or have direct contact with the patient. (Emphasis added)**

**Rules of the Board of Marriage and Family Therapist Examiners,
LLS Docket 200672/SoS Tracking No. 2020-00733**

4 CCR 736-1

1.22 REQUIRED DISCLOSURE TO PATIENTS – CONVICTION OF OR
DISCIPLINE BASED ON SEXUAL MISCONDUCT (§12-30-115, C.R.S.)

E. A licensee is not required to provide the written disclosure BEFORE providing professional services to the patient in the following instances as set forth in section 12-20-115(4), C.R.S.:

1. The patient is unconscious or otherwise unable to comprehend the disclosure and a guardian of the patient is unavailable;
2. The patient visit occurs in an emergency room or freestanding emergency department or the visit is unscheduled, including consultations in inpatient facilities; or
3. The licensee providing the professional service to the patient is not known to the patient until immediately prior to the start of the visit; or
4. **The licensee does not have a direct treatment relationship or have direct contact with the patient. (Emphasis added)**

**Rules of the Board of Licensed Professional Counselor Examiners,
LLS Docket 200627/SoS Tracking No. 2020-00595**

4 CCR 737-1

1.23 REQUIRED DISCLOSURE TO CLIENTS – CONVICTION OF OR
DISCIPLINE BASED ON SEXUAL MISCONDUCT (§12-30-115 C.R.S.)

E. A licensee or certificate holder is not required to provide the written disclosure BEFORE providing professional services to the patient in the following instances as set forth in section 12-20-115(4), C.R.S:

1. The patient is unconscious or otherwise unable to comprehend the disclosure and a guardian of the patient is unavailable
2. the patient visit occurs in an emergency room or freestanding emergency department or the visit is unscheduled, including consultations in inpatient facilities; or
3. The licensee or certificate holder providing the professional service to the patient is not known to the patient until immediately prior to the start of the visit; or
4. **The licensee or certificate holder does not have a direct treatment relationship or have direct contact with the patient. (Emphasis added)**

**Rules of the Director, Office of Acupuncture Licensure,
LLS Docket 200670/SoS Tracking No. 2020-00651**

4 CCR 738-1

1.12 REQUIRED DISCLOSURE TO PATIENTS – CONVICTION OF OR DISCIPLINE BASED ON SEXUAL MISCONDUCT

E. A provider is not required to provide the written disclosure before providing professional services to the patient in the following instances as set forth in section 12-20-115(4), C.R.S:

1. The patient is unconscious or otherwise unable to comprehend the disclosure and a guardian of the patient is unavailable;
2. The patient visit occurs in an emergency room or freestanding emergency department or the visit is unscheduled, including consultations in inpatient facilities; or
3. The provider providing the professional service to the patient is not known to the patient until immediately prior to the start of the visit; or
4. **The provider does not have a direct treatment relationship or have direct contact with the patient. (Emphasis added)**

**Rules of the Director, Office of Direct-Entry Midwifery Registration,
LLS Docket 200671/SoS Tracking No. 2020-00660**

4 CCR 739-1

1.24 REQUIRED DISCLOSURE TO PATIENTS – CONVICTION OF OR DISCIPLINE BASED ON SEXUAL MISCONDUCT

E. A provider is not required to provide the written disclosure before providing professional services to the patient in the following instances as set forth in section 12-20-115(4), C.R.S:

1. The patient is unconscious or otherwise unable to comprehend the disclosure and a guardian of the patient is unavailable;
2. The patient visit occurs in an emergency room or freestanding emergency department or the visit is unscheduled, including consultations in inpatient facilities; or
3. The provider providing the professional service to the patient is not known to the patient until immediately prior to the start of the visit; or
4. **The provider does not have a direct treatment relationship or have direct contact with the patient. (Emphasis added)**

**Rules of the Director, Office of Respiratory Therapy Licensure
LLS Docket 200676/SoS Tracking No. 2020-00645**

4 CCR 741-1

**1.11 REQUIRED DISCLOSURE TO PATIENTS – CONVICTION OF OR
DISCIPLINE BASED ON SEXUAL MISCONDUCT (§12-30-115, C.R.S)**

E. A provider is not required to provide the written disclosure before providing professional services to the patient in the following instances as set forth in section 12-20-115(4), C.R.S:

1. The patient is unconscious or otherwise unable to comprehend the disclosure and a guardian of the patient is unavailable;
2. The patient visit occurs in an emergency room or freestanding emergency department or the visit is unscheduled, including consultations in inpatient facilities; or
3. The provider providing the professional service to the patient is not known to the patient until immediately prior to the start of the visit; or
4. **The provider does not have a direct treatment relationship or have direct contact with the patient. (Emphasis added)**

**Rules of the Board of Addiction Counselor Examiners,
LLS Docket 200637/SoS Tracking No. 2020-00674**

4 CCR 744-1

**1.23 REQUIRED DISCLOSURE TO PATIENTS – CONVICTION OF OR
DISCIPLINE BASED ON SEXUAL MISCONDUCT**

E. A licensee is not required to provide the written disclosure BEFORE providing professional services to the patient in the following instances as set forth in section 12-20-115(4), C.R.S:

1. The patient is unconscious or otherwise unable to comprehend the disclosure and a guardian of the patient is unavailable;
2. The patient visit occurs in an emergency room or freestanding emergency department or the visit is unscheduled, including consultations in inpatient facilities; or
3. The licensee providing the professional service to the patient is not known to the patient until immediately prior to the start of the visit; or
4. **The licensee does not have a direct treatment relationship or have direct contact with the patient. (Emphasis added)**

**Rules of the Director, Office of Surgical Assistant and Surgical Technologist
Registration, LLS Docket 200684/SoS Tracking No. 2020-00661**

4 CCR 745-1

**1.8 REQUIRED DISCLOSURE TO PATIENTS – CONVICTION OF OR
DISCIPLINE BASED ON SEXUAL MISCONDUCT**

E. A provider is not required to provide the written disclosure before providing professional services to the patient in the following instances as set forth in section 12-20-115(4), C.R.S:

1. The patient is unconscious or otherwise unable to comprehend the disclosure and a guardian of the patient is unavailable;
2. The patient visit occurs in an emergency room or freestanding emergency department or the visit is unscheduled, including consultations in inpatient facilities; or
3. The provider providing the professional service to the patient is not known to the patient until immediately prior to the start of the visit; or
4. **The provider does not have a direct treatment relationship or have direct contact with the patient. (Emphasis added)**

**Rules of the Director, Office of Speech Language Pathology Certification,
LLS Docket 200683/SoS Tracking No. 2020-00671**

4 CCR 748-1

**1.23 REQUIRED DISCLOSURE TO PATIENTS – CONVICTION OF OR
DISCIPLINE BASED ON SEXUAL MISCONDUCT**

E. A provider is not required to provide the written disclosure before providing professional services to the patient in the following instances as set forth in section 12-20-115(4), C.R.S.:

1. The patient is unconscious or otherwise unable to comprehend the disclosure and a guardian of the patient is unavailable;
2. The patient visit occurs in an emergency room or freestanding emergency department or the visit is unscheduled, including consultations in inpatient facilities; or
3. The provider providing the professional service to the patient is not known to the patient until immediately prior to the start of the visit; or
- 4. The provider does not have a direct treatment relationship or have direct contact with the patient. (Emphasis added)**

**Rules of the Director, Office of Naturopathic Doctor Registration,
LLS Docket 200678/SoS Tracking No. 2020-00669**

4 CCR 749-1

**1.19 REQUIRED DISCLOSURE TO PATIENTS – CONVICTION OF OR
DISCIPLINE BASED ON SEXUAL MISCONDUCT (§12-30-115 C.R.S)**

E. A provider is not required to provide the written disclosure before providing professional services to the patient in the following instances as set forth in section 12-20-115(4), C.R.S:

1. The patient is unconscious or otherwise unable to comprehend the disclosure and a guardian of the patient is unavailable;
2. The patient visit occurs in an emergency room or freestanding emergency department or the visit is unscheduled, including consultations in inpatient facilities;
3. The provider providing the professional service to the patient is not known to the patient until immediately prior to the start of the visit; or
- 4. The provider does not have a direct treatment relationship or have direct contact with the patient. (Emphasis added)**